

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RUSSELL ROAD FOOD & BEVERAGE, LLC,)
Plaintiff(s),)
vs.)
MIKE GALAM, et al.,)
Defendant(s).)
Case No. 2:13-cv-0776-JCM-NJK
**ORDER GRANTING MOTION TO FILE
AMENDED ANSWER AND DENYING
MOTIONS TO STRIKE**
(Docket Nos. 72, 99, 110)

Pending before the Court are two motions to strike, as well as a motion for leave to file an amended answer. Docket Nos. 72, 99, 110. These motions relate to various answers filed by George Eshaghian, Soleiman Nazarian, Abraham Assil, SN & GE, LLC, and/or West Best Capital Group, LLC (collectively, the “Eshaghian Defendants”). For the reasons discussed below, the Court hereby **GRANTS** the motion for leave to amend (Docket No. 110) and **DENIES** as moot the motions to strike (Docket Nos. 72, 99).

On June 17, 2013, an answer was filed by a subset of the Eshaghian Defendants. Docket No. 68 (filed by George Eshaghian, Soleiman Nazarian, and SN & GE, LLC). On July 9, 2013, Plaintiff filed a motion seeking to strike the affirmative defenses in that initial answer as insufficiently pled. *See* Docket No. 72. No timely response was filed in opposition to the motion to strike.

On August 16, 2013, that same subset of Eshaghian Defendants filed an amended answer, along with a cover letter indicating that the previous answer incorrectly indicated that these Defendants were represented by counsel when in fact they were proceeding *pro se*. Docket No. 90. On September 3, 2013, Plaintiff filed another motion to strike, this time seeking to strike the amended answer in its entirety as

1 being filed without leave to do so and, as to corporate Defendant SN & GE, LLC, for being filed *pro se*.
2 Docket No. 99. The motion also sought to strike the amended answer on the ground that the affirmative
3 defenses were insufficiently pled. *Id.*

4 On September 20, 2013, a new subset of the Eshaghian Defendants filed a second amended answer.
5 Docket No. 102 (filed by West Best Capital Group, LLC, SN & GE, LLC, Abraham Assil, and George
6 Eshaghian). They also filed an appearance of counsel. Docket No. 103. On September 27, 2013,
7 Defendant Nazarian filed a “joinder” to the second amended answer. Docket No. 108.

8 The Eshaghian Defendants did not seek leave to file a second amended answer at the time of its
9 filing (or of the “joinder”). Instead, on October 4, 2013, they filed a response to the motion to strike the
10 first amended answer, arguing that they should be granted leave to file another amended answer. Docket
11 Nos. 109, 110. That response includes a counter motion to amend, Docket No. 110, to which Plaintiff did
12 not file a timely response.

13 In short, the Court essentially has before it an unopposed motion to strike, an opposed motion to
14 strike, and an unopposed counter motion for leave to amend. The Court has discretion to deem the failure
15 to file a response as consent to granting the motion. *See* Local Rule 7-2(d). The Court further notes that
16 Rule 15’s standards for amending the pleadings at this stage are extremely liberal. *See, e.g., Peterson v.*
17 *Boeing Co.*, 715 F.3d 276, 282 (9th Cir. 2013). In light of the liberal standards applicable to allowing
18 amendments and Plaintiff’s non-opposition to the motion for leave to amend, the Court hereby **GRANTS**
19 the motion for leave to amend (Docket No. 110). Within 3 days of this order, the Eshaghian Defendants’
20 counsel shall file the proposed amended answer on the docket. Because the Court grants the motion for
21 leave to amend, the pending motions to strike (Docket Nos. 72, 99) are hereby **DENIED** as moot.

22 IT IS SO ORDERED.

23 DATED: December 17, 2013

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25 NANCY J. KOPPE
United States Magistrate Judge
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